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HOUSE BILL NO. 197

Offered January 13, 2016

Prefiled December 28, 2015

A BILL to amend and reenact §§ 37.2-304 and 40.1-2.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 37.2-312.2, relating to the Commonwealth Workplace Violence Education, Awareness, and Prevention Program.

Patron—Lingamfelter

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-304 and 40.1-2.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 37.2-312.2 as follows:

§ 37.2-304. Duties of Commissioner.

The Commissioner shall be the chief executive officer of the Department and shall have the following duties and powers:

1. To supervise and manage the Department and its state facilities.
 2. To employ the personnel required to carry out the purposes of this title.
 3. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth, consistent with policies and regulations of the Board and applicable federal and state statutes and regulations.

4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the United States government, agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Commissioner shall have the power to comply with conditions and execute agreements that may be necessary, convenient, or desirable, consistent with policies and regulations of the Board.

5. To accept, execute, and administer any trust in which the Department may have an interest, under the terms of the instruments creating the trust, subject to the approval of the Governor.

6. To transfer between state hospitals and training centers school-age individuals who have been identified as appropriate to be placed in public school programs and to negotiate with other school divisions for placements in order to ameliorate the impact on those school divisions located in a jurisdiction in which a state hospital or training center is located.

7. To provide to the Director of the Commonwealth's designated protection and advocacy system, established pursuant to § 51.5-39.13, a written report setting forth the known facts of critical incidents or deaths of individuals receiving services in facilities within 15 working days of the critical incident or death.

8. To work with the appropriate state and federal entities to ensure that any individual who has received services in a state facility for more than one year has possession of or receives prior to discharge any of the following documents, when they are needed to obtain the services contained in his discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a social security card from the Social Security Administration. State facility directors, as part of their responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.

9. To work with the Department of Veterans Services and the Department for Aging and Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.

10. To establish and maintain a pharmaceutical and therapeutics committee composed of representatives of the Department of Medical Assistance Services, state facilities operated by the Department, community services boards, at least one health insurance plan, and at least one individual receiving services to develop a drug formulary for use at all community services boards, state facilities operated by the Department, and providers licensed by the Department.

11. To establish and maintain, jointly with the Department of Labor and Industry, the Commonwealth Workplace Violence Education, Awareness, and Prevention Program pursuant to § 37.2-312.2.

Unless specifically authorized by the Governor to accept or undertake activities for compensation, the

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59 Commissioner shall devote his entire time to his duties.

60 **§ 37.2-312.2. Commonwealth Workplace Violence Education, Awareness, and Prevention Program.**

61 A. As used in this section, unless the context requires a different meaning:

62 "Departments" means the Department of Behavioral Health and Developmental Services and the
63 Department of Labor and Industry.

64 "Workplace violence" means (i) the exercise of physical force by a person against an employee, in a
65 workplace, that causes or could cause physical injury to the employee; (ii) an attempt to exercise
66 physical force against an employee in a workplace that could cause physical injury to the employee; or
67 (iii) a statement or behavior that is reasonable for an employee to interpret as a threat to exercise
68 physical force against the employee, in a workplace, that could cause physical injury to the employee.

69 B. The Departments jointly shall develop the Commonwealth Workplace Violence Education,
70 Awareness, and Prevention Program (the Program). The purpose of the Program shall be to provide
71 participating employers in the Commonwealth, either at the workplace or off site, with information that
72 will provide managerial personnel with a greater ability to understand, recognize, and respond to
73 behaviors of employees observed at the workplace that may indicate mental illness or behavioral health
74 issues that might manifest in episodes resulting in workplace violence. Under the Program, personnel
75 from the Departments may (i) conduct seminars, conferences, classes, or other events; (ii) prepare and
76 provide instructional materials; and (iii) make informational sessions available remotely by the Internet
77 or other media for employers for which in-person events are not economically feasible.

78 C. The issues to be addressed through the Program shall include:

79 1. Unusual patterns of behavior that might suggest that an employee may be prone to workplace
80 violence;

81 2. Steps that employers may take, consistent with state and federal law, to protect themselves from
82 potential workplace violence;

83 3. Services available to an employer that may seek to refer an employee for mental health evaluation
84 or treatment;

85 4. The availability of procedures for the evaluation and, where appropriate, the commitment,
86 admission, or detention of individuals pursuant to current law; and

87 5. Best practices that an employer may implement in order to prevent injury to or the death of
88 employees in the event of an incident of workplace violence.

89 D. In developing the Program, the Departments shall consult with other appropriate public and
90 private agencies and entities, including the Office of the Secretary of Health and Human Resources, the
91 Department for Aging and Rehabilitative Services, the Department of Social Services, the Virginia State
92 Police, the Office of the Attorney General, and the Virginia Chamber of Commerce, for legal, technical,
93 and other assistance in developing and implementing the Program.

94 E. Participation by any employer in the Program shall be voluntary. If more employers seek to
95 participate in Program activities than the Program's resources permit, the Departments shall develop
96 protocols for directing the Program's resources in a manner that ensures that the Program serves
97 employers in all regions of the Commonwealth and in those industrial classifications in which workplace
98 violence is most prevalent.

99 F. The Program shall be funded from such funds as are appropriated from the general fund by the
100 General Assembly.

101 G. Neither the Departments nor any other agency of the Commonwealth shall incur any liability by
102 reason of (i) any action taken by an employer or other person on the basis of information or materials
103 provided through the Program or (ii) any workplace violence that occurs, regardless of whether the
104 workplace at which an episode of workplace violence occurs had received information or materials
105 provided through the Program.

106 **§ 40.1-2.1. Application of title to Commonwealth and its agencies, etc.; safety and health
107 program for public employees; Commonwealth Workplace Violence Education, Awareness, and
108 Prevention Program.**

109 A. The provisions of this title and any rules and regulations promulgated pursuant thereto shall not
110 apply to the Commonwealth or any of its agencies, institutions, or political subdivisions, or any public
111 body, unless, and to the extent that, coverage is extended by specific regulation of the Commissioner or
112 the Safety and Health Codes Board.

113 B. The Commissioner is authorized to establish and maintain an effective and comprehensive
114 occupational safety and health program applicable to employees of the Commonwealth, its agencies,
115 institutions, political subdivisions, or any public body. Such program shall be subject to any State plan
116 submitted to the federal government for State enforcement of the Federal Occupational Safety and
117 Health Act of 1970 (P.L. 91-596), or any other regulation promulgated under Title 40.1. The
118 Commissioner shall establish procedures for enforcing the program which shall include provisions for
119 fair hearings including judicial review and sanctions to be applied for violations.

120 C. The Commissioner is authorized to establish and maintain, jointly with the Department of

- 121** *Behavioral Health and Developmental Services, the Commonwealth Workplace Violence Education,*
122 *Awareness, and Prevention Program pursuant to § 37.2-312.2.*

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